Water Quality Standards Discussion Group

Workshop #5

Future Direction

Overview of What We Heard:

- Suggestions to improve the rulemaking process
- Technical and policy concerns with Ecology's proposed temperature criteria
- Feedback on EPA's regional temperature project
- Suggestions for clarifying antidegradation plan requirements
- Questions regarding the reformatting standards to a use-based system
- Concerns with the UAA process

Rule Adoption Process:
What We Heard and Proposed Changes

The proposed changes to the water quality standards requires an Environmental Impact Statement (EIS).

Ecology will complete an EIS for the proposed changes.

Rule Adoption Process:
What We Heard and Proposed Changes

APA-required material (SBEIS, cost-benefit determination, least burdensome alternative determination, implementation plan, etc.) should be provided to the public for review before the rule is adopted.

Ecology will make draft material available to the public when it files the rule (before public hearings).

Schedule for Rule-Making

July – Scope EIS

Fall 2002 – File rule (CR102), SBEIS, DEIS, and draft APA material

Late Fall/Winter – Public Hearings

Spring 2003 – Adopt Rule (CR103)

Late Spring 2003 – NMFS/USFW Consultation

Summer 2003 – EPA approves the standards

Temperature:
Why are We Proposing the Change?

- The existing temperature criteria were developed years ago.
- With new science available, some thought the criteria were too stringent, others thought they were too lenient.
- Ecology agreed to evaluate the temperature criteria.

Temperature:
What We Heard and Proposed Changes

Ecology should provide more clarity on how the numeric criteria are derived.

The supporting documentation on temperature will more clearly link the science and proposed criteria.

Temperature:
What We Heard and Proposed Changes

Temperature metrics are overly complicated and confusing to implement.

Ecology plans to use only the 7-Day Average of the Daily Maximums (7-DADM) metric and drop the 21-Day Average and 1-Day Maximum.

Temperature:
What We Heard and Proposed Changes

The proposed char (bull trout and Dolly Varden) criterion is unnecessarily stringent.

After further analysis of recently released studies, Ecology plans to change the char criterion from 11.5ºC to 13ºC (7-DADM).

Temperature:
What We Heard and Proposed Changes

The spawning criterion for salmonids is unnecessary (due to natural cooling) if the rearing criterion is met.

We agree that two criteria in one water body adds complexity. Ecology will focus on a rearing criterion that will also protect spawning.

Therefore, we are proposing the following criteria for salmon:

16ºC (7-DADM) for waters with both salmonid rearing and spawning as designated uses.

There is no need for a separate spawning criterion, since most waters with a summer maximum of 16ºC will cool down sufficiently to protect spawning.

17.5ºC (7-DADM) for waters with only salmonid rearing as a designated use.

Antidegradation:
Why are We Proposing the Change?

- Ecology's current antidegradation policy is unclear and it is not consistently implemented.
- EPA requires states to develop an antidegradation plan.

Antidegradation:
What We Heard and Proposed Changes

The antidegradation plan should be in guidance, not in the rule.

Ecology proposes to keep the antidegradation plan in the rule. Adopting the antidegradation plan as a rule provides for full public review. Legally, an antidegradation plan that is consistently implemented should be in the rule.

Antidegradation:
What We Heard and Proposed Changes

The actions that trigger antidegradation reviews could be interpreted as overly broad. Those actions should be identified in the rule.

Ecology plans to change its proposal to refine and specifically name the actions that will trigger a review (e.g., NPDES permits). Actions that do not have a measurable effect on water quality would be exempted.

Antidegradation:
What We Heard and Proposed Changes

The antidegradation requirements appear to add considerable extra work to the permitting process.

Ecology will emphasize reliance on existing information (e.g., engineering reports) where appropriate. Ecology also plans to simplify public notice requirements to match existing requirements.

Antidegradation:
What We Heard and Proposed Changes

The governor or legislature, not Ecology, should designate “Outstanding Natural Resource” waters.

Ecology agrees. We are looking at options on how to approach this.

Antidegradation:
What We Heard and Proposed Changes

The antidegradation rule language is unclear.

Ecology is working to clarify this language.

Use-Based Reformatting:
Why are We Proposing the Change?

- The use-based system will, in the future, give Ecology more flexibility to change uses to reflect what is actually existing and attainable in a water body.

- The existing class system groups uses in ways that don't always make sense.

Use-Based Reformatting:
What We Heard and Proposed Changes

In general, reformatting the standards to use-based is acceptable.

Ecology plans to keep its use-based reformatting proposal.

Note: The current uses designated in the standards cannot be downgraded without conducting a UAA.

Use Attainability Analyses:
What We Heard and Proposed Changes

Other issues, such as changing uses and conducting Use Attainability Analyses (UAAs), need to be addressed.

Ecology will prepare guidance to address UAAs and work with EPA and stakeholders to improve the UAA process.

Ecology will consider rule language to clarify the tools that are available for adjusting the standards.

Dam Related Issues – Why are We Proposing Changes?

Clarify the total dissolved gas special condition.
Clarify the approach to water quality certifications for dams.

Ecology plans to remove the “temporary” clause from the total dissolved gas special condition for fish passage on the Snake and Columbia rivers.

Ecology also plans to add language to address water quality certifications for dam relicenses.

WQ Certifications for Dam Relicensing:

Language will reflect:

- Dams need to endeavor to meet standards.
- If standard can't be achieved, dams can pursue site-specific standard or UAA.
- Certification can be issued based on a compliance plan that follows this direction.

Dissolved Oxygen:
Why are We Proposing the Change?

- The existing dissolved oxygen criteria were developed years ago.
- With new science available, some thought the criteria were too stringent, others thought they were too lenient.
- Ecology agreed to evaluate new science.

Dissolved Oxygen:
Proposed Changes

In order to simplify the criteria and match the format of the temperature criteria, Ecology is considering new dissolved oxygen criteria:

Existing Standards:

9.5 mg/L (1-day minimum) Class AA

8.0 mg/L (1-day minimum) Class A

6.5 mg/L (1-day minimum) Class B

Proposal:

9.5 mg/L (4-month average) Salmonid Spawning AND Rearing Waters

8.5 mg/L (4-month average) Salmonid Rearing ONLY Waters

7.0 mg/L (4-month average) Warm Water Fish Waters

Bacteria:
Why are We Proposing the Change?

- EPA has directed the states to stop using fecal coliform as the indicator to protect contact recreation.

Bacteria:
Proposed Changes

- *E. coli* at 100 cfu/100mL in fresh water and enterococci at 35 cfu/100mL in marine water.
- Fecal coliform at 14 cfu/100mL to protect shellfish in marine water.
- Ecology is proposing to keep the existing secondary contact use.

Ammonia:
Proposed Changes

Ecology is continuing to propose to:

- Apply new EPA acute values to fresh waters.
- Apply new EPA chronic values to non-salmonid waters.
- Use the state's existing chronic criterion in salmonid waters.

Final Thoughts